

**IN THE MATTER OF USA –v- ROSS McLELLAN
AND IN THE MATTER OF MUTUAL ASSISTANCE REQUEST USA
TO IRELAND**

AFFIDAVIT OF DARA ROBINSON

I, Dara Robinson, Solicitor of Sheehan & Partners, Cunningham House, 130 Francis Street, Dublin 8, aged 18 years and upwards, **MAKE OATH** and say as follows:-

1. I am a Solicitor in the firm of Sheehan & Partners, Solicitors and I make this affidavit from facts within my own knowledge save where otherwise appears and whereso otherwise appearing I believe same to be true.
2. I say that on or about June 29, 2017, I was retained to assist in the above proceedings by Robert Goldstein, Attorney, at Goldstein Law Firm, 20 Park Plaza, Suite 1000, Boston, MA 02116 to act as their agent in Ireland in assisting in the obtaining of what they believed to be material evidence requested under cover of Letters Rogatory, dated June 26, 2017, and signed by the Honorable Marianne B. Bowler, Judge of the United States District Court for the District of Massachusetts. In that regard, I beg leave to refer to copies of the said Letters Rogatory, upon which pinned together and marked with the letters “A” I have signed my name prior to the swearing of this Affidavit.
3. I say that on July 4, 2017, after initial discussions and an exchange of emails, a formal retainer agreement was entered into between myself, on behalf of my firm, and Robert Goldstein.
4. On July 5, 2017, I made an informal contact with Gerard Quinlan, of the Chief State Solicitors Office in Ireland, who is in the ordinary way

responsible for the management of mutual assistance requests, to include Letters Rogatory, and other forms of requests for assistance. I was advised on July 5 that Mr. Quinlan had heard nothing from the Central Authority who in the ordinary way refer such requests to him for action in the Courts.

- 5 For the next several months, and leaving aside two short absences on leave when I was abroad on vacation, I regularly telephoned both Mr. Quinlan and Mr. Goldstein, and maintained email contact, reporting back to Mr. Goldstein on every occasion, to the effect that the Letters Rogatory had not yet been received by the Central Authority, (which is based in the Department of Justice and Equality in Ireland), and hence had not yet been forwarded to Mr. Quinlan.
- 6 I say that, finally, on December 13, 2017, I was advised by Maksim Nemtsev, an associate of Mr. Goldstein, that further to his inquiry of the US Embassy in Ireland, the Letters had been established as having been received by said Embassy, and transmitted to the Department of Foreign Affairs on September 29 and October 2 respectively.
- 7 Acting on that information, I made my first formal request for assistance in the process of Mr. Quinlan, by email on December 15, 2017, and in that regard, I beg leave to refer to the said email upon which marked with the letter "B" I have signed my name prior to the swearing hereof.
- 8 I say that on December 19 by telephone contact with Mr. Quinlan, I was advised that the Letters had not yet been sent from the Department of Foreign Affairs to the Central Authority within the Department of Justice and Equality, but the Letters had been "located within the DFA", and would now be sent to the Central Authority and acted upon without further delay.
- 9 I say that on January 3, 2018, following the Christmas and New Year break when most legal services in Ireland are entirely closed for vacation, I spoke again to Mr. Quinlan and was advised that the Central Authority had now received the documentation and that Mr. Quinlan

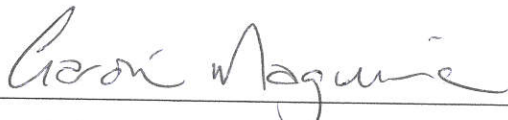
would do what he could to accelerate the process, noting the very lengthy delays that had already been experienced in the execution of the requests by way of the Letters Rogatory.

- 10 The next, and surprising, development was a letter received from Mr. Quinlan on January 12, 2018, indicating that because the request was not in conformity with the Mutual Legal Assistance Treaty signed at Dublin on July 14, 2005 in that the request had not been made from the nominated Central Authority in the USA to the nominated Central Authority in Ireland, it was not proposed by the Irish Central Authority to act upon the requests of Judge Bowler, and that, in effect, a new request, "in accordance with the...Instrument" (being the Treaty of 2005) would have to be instituted.
- 11 The position therefore as at the date of swearing is that the requests made by Judge Bowler over six months ago have had no effect whatever in respect of securing the materials which she has been persuaded are required to ensure that the herein Defendant is in a position to answer the issues in dispute in the action.

SWORN by the said Dara Robinson this
day of 19th January 2018

at FRANCIS STREET

in the City of Dublin before me a ~~Commissioner~~
~~for Oaths~~/a Practising Solicitor and I know the
Deponent



Commissioner for Oaths/a Practising Solicitor



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AFFIDAVIT OF DARA ROBINSON

**SHEEHAN & PARTNERS,
SOLICITORS,
130, FRANCIS STREET,
DUBLIN 8**

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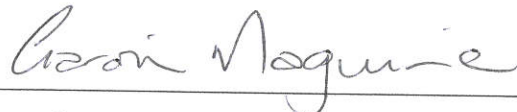
Exhibit "A" referred to in Affidavit of Dara

Robinson sworn this 19th day of January 2018

at FAVUS STREET

in the City of Dublin before me a ~~Commissioner~~

~~for Oaths~~/a Practising Solicitor




~~Commissioner for Oaths~~/a Practising Solicitor

**IN THE MATTER OF USA -v- ROSS McLELLAN
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Exhibit "B" referred to in Affidavit of Dara
Robinson sworn this 19th day of January 2018

at FAIRIS STREET
in the City of Dublin before me a ~~Commissioner~~
~~for Oaths~~/a Practising Solicitor



~~Commissioner for Oaths~~/a Practising Solicitor



OIFIG AN PHRÍOMH-ATURNAE STÁIT
CHIEF STATE SOLICITOR'S OFFICE

RECEIVED 12 JAN 2018

11th January 2018

Sheehan & Company Solicitors,
Cunningham House,
130 Francis Street,
Dublin 8.

Your Ref.:

Our Ref.: GQ/2018/00034/

Contact: Gerry Quinlan
Direct Dial: 4176149
gerry_quinlan@csso.gov.ie

FAO: Dara Robinson, Solicitor

**Re.: Request for Mutual Legal Assistance from the United States Authorities -
Ross McLellan**

Dear Sir,

I refer to the above matter and to the writer's telephone conversation with Mr. Dara Robinson Solicitor of your office and also refer to the email of the 15th of December addressed to this office from Mr. Robinson.


I can now confirm that the two Requests the subject matter of this case were received by the Department of Justice and Equality via the Department of Foreign Affairs and Trade on the 20th of December 2017. The two Requests were then passed on to this office.

I can now confirm that the Central Authority of the Department of Justice and Equality have informed me that the only way their office will be able to accept the incoming Requests from the US is for the Central Authority pursuant to the Instrument between Ireland and the United States signed on the 14th of July 2005 implementing the Agreement on Mutual Legal Assistance between the United States and European Union signed on the 25th of June 2003. They have now returned the documentation to the Department of Foreign Affairs informing them of same and will be happy to facilitate any Request received in accordance with the above instrument and sent from the US Central Authority to the Irish Central Authority in the Department of Justice and Equality.

You will recollect that these Requests emanated directly from the Honourable Marianne Bowler who is the Judge in the United States who has carriage of the forthcoming trial.

In order to speed up the process perhaps you would take up this matter with your instructing solicitor, Mr. Robert Goldstein of Goldstein Law Firm in order that fresh Requests can be furnished through the proper channels. .

Yours faithfully,



MARIA BROWNE
CHIEF STATE SOLICITOR

